



# MISSOURI PROSECUTOR

APRIL 2006

Volume 13, Issue 4

## CASELAW INDEX

### MISSOURI SUPREME COURT

*Dale Dobbins v. State of Missouri*—Ineffective Assistance of Counsel  
*State of Missouri v. Charles L. Sanchez*—Persistent Offender—Sufficiency of Evidence  
*David Nelson v. Dennis Crane, Callaway County Sheriff*—Concealed Weapons Permits

### MISSOURI EASTERN DISTRICT

*State of Missouri v. Mecca Scott*—Search & Seizure—Searches Incident to Arrest  
*Julius Martin v. State of Missouri*—Plea of Guilty—Factual Basis

### MISSOURI WESTERN DISTRICT

*Timothy Johnson v. State of Missouri*—Ineffective Assistance of Counsel  
*State of Missouri v. James M. Lewis*—Affirmative Defense—Not Guilty by Reason of Mental Disease or Defect  
*State of Missouri v. Gary M. Jackson*—Search & Seizure—Inventory Searches  
*State of Missouri v. Bradley E. St. John*—Sentencing Enhancement—Proof of Priors  
*Greggory Hudson v. State of Missouri*—DNA—Postconviction Testing  
*State of Missouri v. Larry C. Hashman*—Instructional Error  
*Vernon Norfolk v. State of Missouri*—Postconviction Motions

### MISSOURI SOUTHERN DISTRICT

*Matthew Wayne Cook v. State of Missouri*—Ineffective Assistance of Counsel  
*James Fortner v. State of Missouri*—Ineffective Assistance of Counsel  
*State of Missouri v. Charles R. Eoff, Jr.*—Instructions—Lesser Included Offenses  
*State of Missouri v. Wesley Eugene Fields*—DNA—Postconviction Testing  
*State of Missouri v. Phillip C. Bristow*—Instructional Error  
*State of Missouri v. Richard Oplinger*—Evidence of Other Crimes  
*State of Missouri v. Patrick L. Edmonds*—Juror—Nondisclosure  
*State of Missouri v. Annalea R. Bremenkamp*—Possession—Sufficiency of the Evidence  
*Stephen J. Hill v. State of Missouri*—Postconviction Motions  
*State of Missouri v. John H. Green*—Appeal—Waiver of Right

## INSIDE THIS ISSUE:

Announcements	2-4
Caselaw Update	5-9
Prosecutor Profile— Tim Bickhaus	10
MOPS Spring Conference Photos	11-12
Training Calendar	13-15
DWI/Vehicular Homicide Conference Agenda & Registration	16-17

## SPRING CONFERENCE—ELECTED PROSECUTOR MEETING



John Kay, MAPA President &  
Moniteau County Prosecutor



Kevin Barbour, Butler Co Prosecutor; Jason Kanoy, Caldwell Co Prosecutor; Bart Spear, DeKalb Co Prosecutor; Jim Garrett, Putnam Co Prosecutor; and Julia Filley, Daviess Co Prosecutor



Teresa Hensley, Cass Co Prosecutor; Eric Zahnd, Platte Co Prosecutor; Dwight Scroggins, Buchanan Co Prosecutor; Bob Wilkins, Jefferson Co Prosecutor; Darrell Moore, Greene Co Prosecutor; and Ron Cleek, Christian Co Prosecutor



Steve Sokoloff, Dunklin Co Prosecutor; Bob Parks, Franklin Co Prosecutor; John Rupp, Washington Co Prosecutor; and Steven Kaderly, Barton Co Prosecutor

## BLUNT APPOINTS DAVOLT AS POLK COUNTY PROSECUTING ATTORNEY

JEFFERSON CITY-Gov. Matt Blunt appointed Paul A. Davolt (R) as Polk County Prosecuting Attorney.

Davolt, 40 of Bolivar, is an assistant public defender for the Missouri State Public Defender System. Davolt previously served as an associate attorney at Malkmus Law Firm, LLC. Davolt holds a bachelor's degree in business administration from Missouri State University and a juris doctorate from Oklahoma City University.

"Paul Davolt's experience as a public defender provides him with an invaluable perspective that will benefit the county when he assumes his duties as prosecuting attorney," Blunt said. "I am pleased he has agreed to serve the citizens of Polk County in this capacity."

Davolt will fill the vacancy created by the appointment of John C. Porter as Associate Circuit Judge of the 30th Judicial Circuit.

## 2005 TRIAL CASEBOOKS

The *2005 John M. Morris Missouri Prosecutors Trial Casebook* is now available. If your office did not pick up copies at the Spring Training, please call the MOPS office. CD-Rom versions of the casebook are also available and were distributed, one per office to Elected Prosecutors, at the conference.

## DOING JUSTICE: A Prosecutor's Guide to Ethics and Civil Liability

MOPS has received some complimentary copies of *"Doing Justice: A Prosecutor's Guide to Ethics and Civil Liability"*. The National College of District Attorneys, the education division of the National District Attorneys Association, published this book under the auspices of the National Center for Prosecution Ethics. The book is a practical guide for prosecutors addressing common ethical and liability questions faced by prosecutors.

If you are interested in reviewing this material you may contact the MOPS office.

## DWI/VEHICULAR HOMICIDE SEMINAR

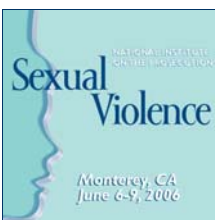
There is still time to register for the 2006 DWI/Vehicular Homicide Seminar. This years seminar will feature all new speakers and topics. The program will cover topics of interest to prosecutors, law enforcement officers, and others interested in impaired driving issues.

Topics include: Perspectives on DWI—nationally, in Missouri, and a victim's story; an overview of the National Traffic Law Center and DWI courts; caselaw update & issues with in-car cameras; prescription drug abuse; a DWI trial; criminal history reporting and the DWI tracking system; teamwork in DWI investigations & prosecutions; and the ethics of DWI investigations & prosecutions.

An agenda and registration form are included on **pages 16-17** of this newsletter.

This program is POST accredited for law enforcement officers, and is accredited for 17.7 CLE hours for attorneys, with 2.1 hours being ethics.

You may contact Susan Glass or Bev Case at 573-751-0619 or 573-751-1629 with questions.



The **National Institute on the Prosecution of Sexual Violence** will be held from June 6 - 9, 2006 in Monterey, CA. The Institute is a collaboration of the National Center for the Prosecution of Violence Against Women at APRI and the

Pennsylvania Coalition Against Rape and is supported by the Office on Violence Against Women.

The Institute is an interactive training for prosecutors that equips them with the tools and strategies they need to shatter the myths about nonstranger sexual violence and successfully evaluate, investigate and prosecute sexual assault cases.

The course is limited to 50 participants. Registration closes on May 12, 2006. Priority will be given to those who apply before May 1, 2006. For more information, please see:

[http://www.ndaa-apri.org/education/apri/natl\\_inst\\_prosecution\\_sv\\_monterey\\_2006.html](http://www.ndaa-apri.org/education/apri/natl_inst_prosecution_sv_monterey_2006.html)

## PREDATOR CASE SHEDS LIGHT ON OBSCURE LAW

COLUMBIA MISSOURIAN ~ Wednesday, April 19, 2006

By JOANIE HAMMES

**SEXUALLY VIOLENT OFFENSES** A 13th Circuit Court judge decided Friday that a Mexico, Mo., man is likely to be determined a sexually violent predator and ordered him to be returned to a Farmington facility for a second evaluation.

After that evaluation, James Fennewald, 41, will face a jury that could decide whether he should be civilly committed.

If that happens, he will become one of 77 people to be institutionalized after serving prison time for sexually violent offenses under a little-known Missouri law that allows for such commitments of sexually violent predators.

The 1999 statute defines a sexually violent predator as a person with a "mental abnormality," which predisposes the person to committing sexually violent acts. Once a person is identified as a sexually violent predator, the classification remains until he or she is judged to be rehabilitated.

"Per the statute, each person is given an annual review to determine if their mental abnormality has so changed that they are safe to be at large," said John Fougere, press secretary for Missouri Attorney General Jay Nixon.

But the reality is that no one who has been committed has ever been released from the program, Fennewald's attorney Michelle Monahan said. "And there are people who have been in there over six years," she said.

Fennewald was convicted in Boone County six years ago on two counts of first-degree statutory sodomy for sexually abusing a friend's daughters, according to Boone County court documents. He served his sentence and successfully completed the Missouri Sex Offender Program, but he returned to prison twice on parole violations for viewing pornography and deliberately going places where he knew young girls would be, the documents state.

Friday's hearing was to determine probable cause that Fennewald could be considered a sexually violent predator.

Kimberly Weiltl, a psychologist from the Farmington Corrections Center, testified at the hearing that there is probable cause for Fennewald to be considered a sexually violent predator, based on her review of his offense files and an interview with him.

Fennewald's next evaluation will be conducted by a psychologist from the Missouri Department of Mental Health, Monahan said.

"It's a much more detailed evaluation, and they have access to a lot more records than this doctor who (testified) at the probable cause hearing," she said.

The psychologist will then testify at Fennewald's jury trial as to whether he should be committed indefinitely.

Monahan filed a motion challenging the law citing the prohibition against double jeopardy. Under this principle, a person may not be punished twice for the same crime. "The idea with double jeopardy is, does it have a criminal or punitive element," she said. "In other words, is it punishment again for the same thing? Our argument, of course, is, 'Yes, it is,'" she said.

The attorney general's office disagrees and has the backing of the U.S. Supreme Court.

"Civil commitment does not present double jeopardy issues because the U.S. Supreme Court has ruled in *Kansas versus Hendricks* that it is not punishment," Fougere said. "Only successive penal sentences for the same offense violate double jeopardy."

In that case, the high court upheld Kansas' right to civilly commit to a mental health facility a man with a history of child molestation after he'd served a prison sentence for sex crimes against two adolescents.

Even though civil commitment is not considered punishment, the Farmington facility is on Missouri Department of Corrections property, and the people who have been committed are essentially locked up without a chance of getting out, Monahan said.

The civil commitment law was passed after Missouri lawmakers increased sentences for certain sex offenses, said Steve Gaw, the Missouri representative who co-sponsored the original bill. The changes in the 1998 criminal statute provided more life sentences and lifetime parole for dangerous sex crimes, Gaw said.

But he said there were problems. First, there was nothing that could be done about previously convicted sex offenders — they were already out on the street. Even those who hadn't been released were protected if they were sentenced before the law was changed.

"And if prosecutors had chosen not to evaluate or utilize the law that was passed the previous year, that would create a problem in regard to treatment and public safety," Gaw said. These issues were justification to pass the civil commitment law as an "additional tool" to the enhanced laws, he said.

Now, with lawmakers considering even longer sentences for sex offenses, state Rep. Scott Lipke, chairman of the Missouri House Crime Prevention and Public Safety Committee, couldn't say whether longer sentences for sex offenses would mean fewer commitments of sexually violent predators. "I think they're two different animals, so to speak," said Lipke, R-Jackson. "This civil side comes after the offender has already served his or her time."

"This bill is more geared toward trying to find the appropriate punishment and being as tough on them as possible, no matter what the sexual offense," he said.

It's important for prosecutors to have as many options as they can, while ensuring that the punishment fits the crime. "It's not as easy as people like to think it is," Lipke said. Neither Fennewald's second evaluation nor his jury trial had been scheduled Tuesday.

### **The following are considered sexually violent offenses:**

- ~ Forcible rape ~ Felony rape ~ First-degree statutory rape ~ Forcible sodomy ~ Felony sodomy ~ First-degree statutory sodomy ~ Attempt to commit any of the above ~ First- or second degree child molestation ~ Sexual abuse ~ Sexual assault ~ Deviant sexual assault
- ~ The act of abuse of a child which involves sexual contact

Source: Missouri Revised Statute Chapter 632, Section 632.480

<http://www.columbiamissourian.com/news/story.php?ID=19487>



## AMERICAN PROSECUTORS RESEARCH INSTITUTE Senior Attorney Positions

### • *Senior Attorney, National Center for Prosecution of Violence Against Women*

APRI is seeking an experienced prosecutor with expertise in the field of violence against women and specifically the latest methods of investigating and prosecuting domestic violence, adult sexual assault, stalking and cyber stalking. The senior attorney will perform grant activities that include providing technical assistance to field prosecutors, developing curriculum and conducting training nationwide, and writing monographs, newsletters and other resources for criminal prosecutors and allied professionals. Candidates must have knowledge of current research, policies and protocols related to the field of violence against women as well as familiarity with diverse and underserved populations.

### • *Senior Attorney, National Traffic Law Center*

APRI is seeking an experienced prosecutor with expertise in the field of impaired driving and related vehicular offenses. The senior attorney will help oversee activities that identify, develop and disseminate information and develop programs to improve local prosecutors' abilities to investigate and prosecute impaired driving cases. Candidates must have substantial experience in impaired driving cases, and knowledge of various topics including highway safety, vehicular homicide, passenger culpability, criminal liability for providing alcohol to minors, blood test issues, retrograde extrapolation, breath test issues, and criminalizing refusals of chemical tests.

#### Senior Attorney Responsibilities Include

- \* Research and keep current on prosecution-related issues concerning the law, policies, and practices
- \* Provide legal and technical assistance to prosecutors
- \* Write articles and contribute to legal publications
- \* Develop new curriculum and revise existing curriculum to stay current with prosecutor needs
- \* Prepare and conduct state and local training
- \* Conduct and coordinate multidisciplinary and national trial advocacy training
- \* Help maintain Web site resources for prosecutors
- \* Work in partnership with a national network of prosecutors and other professionals from allied fields
- \* Contribute to the development of grant proposals

#### Position Requirements and Qualifications

- \* J.D. and Bar membership
- \* 5 + years of criminal prosecution experience at the local or state level
- \* Demonstrated substantive and specialized knowledge and experience in criminal prosecution
- \* Significant jury trial experience
- \* Strong writing, interpersonal, communication, and presentation skills
- \* The ability to interact with people from a wide range of professions and disciplines
- \* Teaching and training experience desired
- \* Proposal writing and grant management experience is helpful

#### Travel Requirements

- \* Average travel time is as much as 5 - 7 days per month depending on program requirements

#### Salary Range

- \* Starting salary will be commensurate with experience and qualifications.

#### Application Instructions

- \* Send your resume and cover letter along with your salary requirement. (Attorney and research positions require writing samples as well.) Please identify the position that you are applying for in your application materials.
- \* Apply now via e-mail at [hr@ndaa-apri.org](mailto:hr@ndaa-apri.org)
- \* Mail to: Human Resources, American Prosecutors Research Institute, 99 Canal Center Plaza, Suite 510, Alexandria, VA 22314
- \* Fax to: (703) 836-3195

## AMERICAN PROSECUTORS RESEARCH INSTITUTE APRI Program Manager Position

### • *Program Manager, Gun Violence Prosecution*

APRI is seeking an experienced prosecutor in the field of gun violence. The program manager oversees grant activities that include providing technical assistance to field prosecutors, developing curriculum and conducting training nationwide, and writing monographs, newsletters and other resources for criminal prosecutors and allied professionals. Candidates must have substantial experience investigating and prosecuting cases involving gun violence and illegal gun possession, and knowledge of various topics including reducing gun violence, the relationship between gangs and illegal guns, and drugs and illegal guns. Experience as a gun crime prosecutor, preferably with a background working in support of Project Safe Neighborhoods (the President's gun violence reduction initiative) is highly desired.

#### Program Manager Responsibilities include

- \* Research and write on prosecution-related issues concerning the law, policies, and practices for publication as newsletters, articles, and monographs
- \* Provide technical assistance to local prosecutors
- \* Manage and supervise staff, resources and activities to meet program objectives
- \* Work with federal grant monitors and federal agency personnel
- \* Work with an advisory group of prosecutors from around the country that help guide grant activities
- \* Develop new curriculum and revise existing curriculum to stay current with prosecutor needs
- \* Prepare and conduct state and local training
- \* Conduct and coordinate multidisciplinary and national trial advocacy training
- \* Help maintain Web site resources for prosecutors
- \* Work in partnership with a national network of prosecutors and other professionals from allied fields
- \* Contribute to the development of grant proposals

#### Position Requirements and Qualifications

- \* J.D. and Bar membership
- \* 5 + years of criminal prosecution experience at the local or state level
- \* Demonstrated substantive and specialized knowledge and experience in gun violence prosecution
- \* Significant jury trial experience
- \* Strong writing skills
- \* Strong interpersonal, communication, and presentation skills
- \* The ability to interact with people from a wide range of professions and disciplines
- \* Management and supervisory experience preferred
- \* Teaching and training experience desired
- \* Proposal writing and grant management experience desired

#### Travel Requirements

- \* Average travel time is as much as 5 - 7 days per month depending on program requirements

#### Salary Range

- \* Starting salary will be commensurate with experience and qualifications.

#### Application Instructions

- \* Send your resume and cover letter along with your salary requirement. (Attorney and research positions require writing samples as well.) Please identify the position that you are applying for in your application materials.
- \* Apply now via e-mail at [hr@ndaa-apri.org](mailto:hr@ndaa-apri.org)
- \* Mail to: Human Resources, Attention: PM Gun Prosecution, American Prosecutors Research Institute, 99 Canal Center Plaza, Suite 510, Alexandria, VA 22314
- \* Fax to: (703) 836-3195

**APRI is an equal opportunity employer.**



**The MOPS office has started an index of opinion topics included in the monthly Caselaw Update, beginning with October 2004. If you would like a copy, please contact Sheri at the MOPS office.**

## MISSOURI SUPREME COURT

### ► *Ineffective Assistance of Counsel*

**Dale Dobbins v. State of Missouri, No. SC86737 (Mo. banc April 11, 2006).** Defendant entered open pleas of guilty to possession of more than 5 grams of marijuana with intent to distribute and driving with a suspended license. In doing so, he relied on his attorney's advice that he would be eligible to petition for early release after completing a rehabilitation program. He was ultimately sentenced to 18 years of imprisonment on the possession charge and 6 months for driving while suspended. Defendant then learned that he was not eligible to petition for early release and filed a Rule 24.035 motion for postconviction relief alleging ineffective assistance of counsel.

On appeal, the Supreme Court determined that defendant should be allowed to withdraw his guilty pleas based on erroneous advice given to him by plea counsel. Because defendant was a prior offender, he was not eligible to petition for early release. The mistaken advice given by counsel affected defendant's ability to enter knowing and voluntary pleas.

### ► *Persistent Offender—Sufficiency of Evidence*

**State of Missouri v. Charles L. Sanchez, No. SC87214 (Mo. banc March 21, 2006).** Defendant was convicted of two counts of kidnapping, two counts of armed criminal action, unlawful use of a weapon, and arson in the first degree. He raised several issues on appeal.

The Supreme Court determined that defendant was improperly sentenced as a persistent offender as the State did not establish that he had been convicted of two felonies committed at different times. The court also determined that it was not error to preclude the defendant from presenting the defense of diminished capacity and delusional disorder. This evidence was excluded prior to trial, and the defendant made no offer of proof at trial. The court determined that it was not error to allow a witness to testify that defendant may have been using methamphetamine at the time of the crime. This evidence was admissible as part of the sequence of events surrounding the crime and rebutted defendant's inference that he was mentally ill. The court also determined that the State's closing argument was not plainly erroneous.

The argument rebutted several comments made by defense counsel and had no decisive effect on the jury. The court determined that there was sufficient evidence to sustain his conviction for arson as defendant told a witness that he had started the fire and this fire presented a risk of danger to nearby houses and people. Finally, the court determined that it was not improper to convict defendant of multiple counts of kidnapping as there were multiple victims at issue.

### ► *Concealed Weapons Permits*

**David Nelson v. Dennis Crane, Callaway County Sheriff, No. SC87205 (Mo. banc April 11, 2006).** Nelson applied for a concealed weapons permit. His application was denied because the sheriff determined that he had been previously committed to a mental health facility. On appeal, the Supreme Court determined that Nelson had not been committed to a mental health facility. Rather, he had only been temporarily placed in a mental health facility under section 632.305.3 which provides for 96-hour detentions for evaluation and treatment. Because the terms commitment and detention have distinct meanings, the court assumes the legislature was aware of the meaning of these terms when enacting the concealed weapons statute.

## MISSOURI EASTERN DISTRICT

► *Search and Seizure—Searches Incident to Arrest*  
**State of Missouri v. Mecca Scott, No. ED85772 (Mo. App. E.D. April 18, 2006).** Defendant was pulled over for driving with a burned-out taillight. He told the officer that he did not have a driver's license, and a computer check revealed that his license was suspended. The officer arrested defendant, handcuffed him, and placed him in the back of the patrol car. The officer then conducted a search of defendant's vehicle, discovering a small amount of crack cocaine. Defendant was then transported to the police station. The officer put the cocaine into a plastic bag and placed it on the counter. Defendant then grabbed the bag, ran into a restroom, and attempted to flush it down the toilet. Defendant was ultimately convicted of attempted tampering with physical evidence.

On appeal, the defendant claimed that the search of his vehicle was improper. The court concluded, however, that the search was a proper search incident to arrest. The search was proper even though the defendant was secured in the patrol car at the time of the search. Officer safety is still an issue even where a suspect is secured, thus searches incident to arrest in that situation are valid.

**MISSOURI EASTERN DISTRICT continued**► ***Plea of Guilty—Factual Basis***

**Julius Martin v. State of Missouri, No. ED85959 (Mo. App. E.D. March 28, 2006).** Defendant pled guilty to robbery in the first degree and armed criminal action. Thereafter, he filed a Rule 24.035 motion for postconviction relief claiming that his pleas lacked a sufficient factual basis. This motion was denied.

On appeal, the court found that there was a sufficient factual basis for the guilty pleas because defendant admitted that he took a knife from victim, took something else from the victim after that, and placed the knife near the victim's throat.

**MISSOURI WESTERN DISTRICT**► ***Ineffective Assistance of Counsel***

**Timothy Johnson v. State of Missouri, No. WD65137 (Mo. App. W.D. April 4, 2006).** Defendant was convicted of committing violence against an employee of the Missouri Department of Corrections. He filed a Rule 29.15 motion for postconviction relief claiming that he received ineffective assistance of counsel. Specifically, he claimed that his appellate counsel was ineffective in failing to raise on appeal that the trial court erred in admitting photographs showing the victims' injuries.

On appeal, the court found that defendant did not receive ineffective assistance of appellate counsel. At trial, defendant affirmatively stated that he had no objection to the admission of the photos. This failed to preserve the claim for appeal and waived plain error review of the claim. Thus, it would have been frivolous for his appellate counsel to raise this issue on appeal. Appellate counsel is not ineffective for failing to raise a frivolous claim.

► ***Affirmative Defense—Not Guilty by Reason of Mental Disease or Defect***

**State of Missouri v. James M. Lewis, No. WD64378 (Mo. App. W.D. April 18, 2006).** Defendant engaged in an argument with victim and stabbed him. At the time of the stabbing, defendant claimed that victim had been entering his apartment and messing with his stuff. The defendant was charged with assault in the first degree and armed criminal action.

At trial, the defendant introduced evidence that he was suffering from a mental disease or defect that negated any culpable mental state. At the conclusion of the trial, the trial court determined that defendant was not guilty by reason of mental disease or defect excluding responsibility and ordered him committed to a state mental hospital.

On appeal, defendant claims that the trial court erred by finding him not guilty by reason of mental disease or defect as he had not asserted this defense by entering such a plea or filing a timely notice of his intent to rely on such defense. The court agreed finding that not guilty by reason of mental disease or defect is an affirmative defense that must be initiated and proven by a defendant. Neither the State nor a trial court can assert this defense on behalf of a defendant. Here, the defendant introduced evidence of his mental disease or defect only to demonstrate that he could not form the requisite culpable mental state required for conviction.

► ***Search and Seizure—Inventory Searches***

**State of Missouri v. Gary M. Jackson, No. WD65321 (Mo. App. W.D. March 28, 2006).** Defendant was stopped for failing to signal a turn and not displaying a valid license plate. The defendant could not produce proof of insurance at the time of the stop. After the stop, the officer asked for permission to search the truck and permission was granted. During the course of the search, the officer discovered a rifle. Thereafter, the officer was informed that defendant was on probation for felony assault. The officer then arrested defendant for being a felon in possession of a firearm as well as for failing to signal a turn and failure to produce proof of insurance.

After being transported to the station, defendant was searched and two Carmex containers were found in his pocket. It was determined that these containers contained methamphetamine. A subsequent search also revealed marijuana in defendant's shirt pocket. Defendant was ultimately convicted of possession of methamphetamine and possession of marijuana in a county jail.

On appeal, defendant claims that evidence of the controlled substances found on his person and in his property should have been suppressed as the fruits of an illegal search. The court disagreed finding that it was proper to arrest defendant for the observed traffic violations. Therefore, the searches of his person and property were valid as inventory searches.

► ***Sentencing Enhancement—Proof of Priors***

**State of Missouri v. Bradley E. St. John, No. WD64890 (Mo. App. W.D. March 28, 2006).** Defendant was convicted of domestic assault in the first degree. He was sentenced as a prior and persistent domestic violence offender based on previous Illinois convictions.

On appeal, defendant claimed that the trial court erred in sentencing him as a prior and persistent domestic violence offender as his previous convictions did not meet the statutory definition of "domestic assault offenses." He also claimed that the trial court erred in overruling his motion to strike a venireperson.

**MISSOURI WESTERN DISTRICT continued***State of Missouri v. Bradley E. St. John continued*

The court found that the trial court did err in sentencing defendant as a prior and persistent domestic violence offender because the statutory definition states that only convictions under 565.050, 565.060, 565.072, and 565.073, RSMo, qualify as "domestic violence offenses." Because defendant's prior convictions occurred in Illinois, they could not be used to enhance his sentence. The court also found that the trial court did not err in overruling defendant's motion to strike a venireperson as that venireperson indicated she could follow the law and be a fair and impartial juror.

► **DNA—Postconviction Testing**

**Greggory Hudson v. State of Missouri, No. WD 64725 (Mo. App. W.D. March 28, 2006).** In 1996, defendant was convicted of first-degree murder and armed criminal action. Thereafter, defendant filed a motion pursuant to 547.035 to have DNA testing done on certain evidence concerning another individual. Defendant characterized this individual as an alternative perpetrator and sought to have his DNA compared to DNA found on a cigarette butt found at the scene of the crimes of which defendant was convicted. It was established at the 1996 trial that the DNA found on the cigarette butt did not match either the victim or the defendant. This motion was denied.

On appeal, defendant claims that the motion was erroneously denied because he was not required to show that the evidence he sought to have tested was "secured in relation to the crime." He also claims that he was not required to show that if exculpatory results had been obtained from the requested testing a reasonable probability existed that he would not have been convicted.

The court found that section 547.035 does in fact require that the evidence sought to be tested was secured in relation to the crime. Section 547.035 does not create a procedure for testing newly discovered evidence. The court also found that because evidence had been introduced at defendant's trial indicating that the DNA found on the cigarette butt did not match the defendant, the result of the trial would not have been different even if the DNA was found to belong to the potential alternative perpetrator identified by defendant.

► **Instructional Error**

**State of Missouri v. Larry C. Hashman, No. WD64821 (Mo. App. W.D. April 4, 2006).** Defendant was convicted of assault in the first degree and armed criminal action. He appealed claiming that the trial court erred in failing to instruct the jury on defense of premises and denying his request for a mistrial when the State misstated the burden of proof.

On appeal, the court found that the trial court did not err in refusing to instruct the jury on defense of premises. The evidence at trial established that victim was initially inside defendant's house at his request and with his permission. The defendant also allowed the victim into the house a second time. Once she was inside the house, the victim no longer presented a danger of unlawful but rather of imminent bodily harm to the defendant. Thus, the appropriate instruction was one for self-defense which was given to the jury. The court also found that it was not error to refuse a mistrial. The State did not misstate the burden of proof in this case, but rather informed the jury that defendant was a liar and that they did not have to believe his claims at trial.

► **Postconviction Motions**

**Vernon Norfolk v. State of Missouri, No. WD64831 (Mo. App. W.D. April 4, 2006).** In 1996, defendant pled guilty to one charge of knowingly burning. He was sentenced to five years of imprisonment, execution of the sentence was suspended, and he was placed on probation for five years. In January 2000, defendant's probation was revoked for failing to pay restitution and the court imposed a new five-year term of probation. In August 2002, the court ordered the early termination of defendant's probation based upon a finding that court costs and restitution had been paid in full. Three weeks later, the court rescinded this order based on information that defendant had made fraudulent representations regarding the payment of restitution and reinstated his probation. Thereafter, the court revoked the probation and ordered execution of his prison sentence. Defendant then filed a Rule 24.035 motion for postconviction relief claiming that the trial court lacked jurisdiction to reinstate and revoke his probation and execute the prison sentence.

On appeal, the court agreed that the trial court lost jurisdiction when it discharged defendant from probation. Thus, the trial court had no authority to reinstate the probation or execute the prison sentence.





## MISSOURI SOUTHERN DISTRICT

▶ ***Ineffective Assistance of Counsel***

**Matthew Wayne Cook v. State of Missouri, No. SD26981 (Mo. App. S.D. April 19, 2006).** Defendant entered pleas of guilty to charges of forcible sodomy and child molestation. He was sentenced to thirty years on the sodomy charge and seven years on the molestation charge, to be served concurrently. Thereafter, he filed a Rule 24.035 motion for postconviction relief claiming that he received ineffective assistance of counsel. This motion was denied.

On appeal, the defendant claimed that his trial counsel was ineffective in failing to adequately investigate his mental impairment and failed to present sufficient mitigating and rebuttal evidence. The court found that defendant's trial counsel had adequately investigated his possible mental impairment by having him evaluated by a psychologist. The court also found that defendant's trial counsel properly presented mitigating evidence in the form of a letter from a licensed professional counselor who had interviewed and found that he would be amenable to sex offender treatment.

▶ ***Ineffective Assistance of Counsel***

**James Fortner v. State of Missouri, No. SD26832 (Mo. App. S.D. March 28, 2006).** Defendant was convicted of sodomy in the first degree. He filed a Rule 29.15 motion for postconviction relief claimed he received ineffective assistance of counsel as his trial counsel failed to call his nephew as a witness. The motion was denied.

On appeal, the court found that defendant's trial counsel had interviewed the nephew and determined that his testimony would not be consistent with defendant's expectations and would, in part, substantiate the testimony of the complaining witness. Thus, it was a sound exercise of trial strategy not to call the nephew as a witness.

▶ ***Instructions—Lesser Included Offenses***

**State of Missouri v. Charles R. Eoff, Jr., No. SD26047 (Mo. App. S.D. April 13, 2006).** Defendant was charged with robbery in the first degree, assault in the second degree and armed criminal action. After trial, a jury found defendant guilty on all three counts.

On appeal, defendant claimed that the trial court erred in failing to instruct the jury on the lesser included offenses of robbery in the second degree and assault in the third degree and in failing to suppress victim's out-of-court identification of him. The court disagreed finding that because defendant used a large stick to strike the victim more than one time there was no basis on which the jury could have acquitted him of the greater offenses and convicted him of the lesser. When used to bludgeon a victim, a stick clearly qualifies as a dangerous instru-

ment. It was also proper to admit victim's out-of-court identification as the circumstances of the identification were not overly suggestive and victim had the opportunity to observe defendant for five to ten minutes only five hours prior to the identification.

▶ ***DNA—Postconviction Testing***

**State of Missouri v. Wesley Eugene Fields, No. SD27057 (Mo. App. S.D. March 29, 2006).** Defendant was convicted in 1973 of capital murder. He thereafter filed a motion for DNA testing pursuant to 547.035. This motion was denied.

On appeal, the court agreed that defendant was not entitled to DNA testing as he could not prove that identity was an issue in the trial on his murder conviction. Defendant never contested that he was the person responsible for shooting the victim. Defendant also failed to allege how any testing would exonerate him.

▶ ***Instructional Error***

**State of Missouri v. Phillip C. Bristow, No. SD26825 (Mo. App. S.D. March 31, 2006).** Defendant was convicted of assault in the first degree and armed criminal action. He appealed claiming that the trial court gave the jury an improper instruction advising the jury that voluntary intoxication was no defense to the charged crimes. Defendant claimed that this instruction lacked evidentiary support, confused and misled the jury, and prevented the jury from considering his claim of self-defense.

On appeal, the court agreed that the instruction was improperly given holding that there must be some evidence of impairment before a jury may be instructed on voluntary intoxication. In this case, there was no evidence that the defendant was in an intoxicated condition. The court also found that defendant was prejudiced by the giving of this instruction because it led the jury to believe that he was attempting to escape liability based on intoxication thereby implicitly admitting some wrongdoing and that he was, in fact, intoxicated which would negatively affect his credibility. Thus, the convictions were reversed.

▶ ***Evidence of Other Crimes***

**State of Missouri v. Richard Oplinger, No. SD27036 (Mo. App. S.D. March 31, 2006).** Defendant was convicted of robbery in the first degree and armed criminal action. He appealed claiming that the trial court erred in allowing the State to cross-examine him about his use of methamphetamine the night before the robbery. Defendant claims this evidence was irrelevant and prejudicial.

On appeal, the court found that evidence of defendant's drug use the night before the crime was relevant and subject to cross-examination as it impacted his credibility and ability to perceive and recollect the events about which he was testifying.



**MISSOURI SOUTHERN DISTRICT continued**▶ ***Juror–Nondisclosure***

**State of Missouri v. Patrick L. Edmonds, No. SD26554 (Mo. App. S.D. March 15, 2006).** Defendant was convicted of forcible rape, forcible sodomy and incest with his daughter. He appealed challenging the selection of one juror on the basis of nondisclosure, the admission of testimony that he had refused to answer a particular question, and the admission of testimony that he had never apologized to his daughter.

On appeal, the court found that there was no intentional nondisclosure by the juror as there was no specific question which the juror failed to answer. Thus, there was no factual basis for the defendant's claim of nondisclosure. The court also found that testimony concerning defendant's refusal to answer a particular question was properly admitted as defendant was not in custody at the time he refused to answer the question. Finally, the court held that it was not plain error to admit evidence that defendant had not apologized to his daughter because the question was ambiguous and did not result in prejudice to defendant.

▶ ***Possession–Sufficiency of the Evidence***

**State of Missouri v. Annalea R. Bremenkamp, No. SD26975 (Mo. App. S.D. April 10, 2006).** Defendant was convicted of possession of methamphetamine with intent to distribute and possession of pseudoephedrine with intent to manufacture methamphetamine. She appealed claiming the trial court erred in admitting an inculpatory statement she made during execution of the search warrant and challenging the sufficiency of the evidence.

On appeal, the court found that it was not error to admit defendant's inculpatory statements because although the defendant had been Mirandized and refused to speak to officers upon execution of the search warrant, she had been released from custody for approximately one month before she made the statements at issue here. Moreover, she had again been advised of her Miranda rights prior to making the statements. The court also found that there was sufficient evidence to sustain her convictions. Defendant had routine access to areas where methamphetamine was being manufactured, she was in close proximity to drugs and drug paraphernalia in plain view of the police, and defendant made inculpatory statements.

▶ ***Postconviction Motions***

**Stephen J. Hill v. State of Missouri, No. SD26690 (Mo. App. S.D. April 20, 2006).** Defendant was convicted of murder in the second degree in 1993 and sentenced to life imprisonment. Shortly thereafter, defendant

filed a Rule 29.15 motion for postconviction relief. Counsel was appointed, an amended motion was filed, and an evidentiary hearing was conducted. The motion was denied. Both the conviction and the denial of the motion were upheld after appeal.

In 2004, defendant filed a pleading entitled "Motion Re-question Sua Sponte Inquiry into Abandonment/Conflict of Interest Upon this Court by Attorney James C. Martin concerning Motion to Vacate, Set Aside or Correct Judgment or Sentence and/or to Enter Appealable Judgment." No hearing was held. This motion was denied.

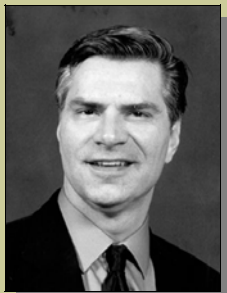
On appeal, defendant claims that his postconviction counsel abandoned him by failing to raise an issue regarding an erroneous instruction given at his trial for murder. The court found that there was no abandonment as postconviction counsel filed a timely amended motion and conducted a lengthy evidentiary hearing. The court also determined that defendant's motion was really nothing more than a claim of ineffective assistance of postconviction counsel which was categorically unreviewable.

▶ ***Appeal–Waiver of Right***

**State of Missouri v. John H. Green, No. SD26967 (Mo. App. S.D. April 21, 2006).** Defendant was convicted of one count of possession of marijuana with intent to distribute. Because he was a prior and persistent offender, he faced punishment ranging from ten to thirty years of imprisonment. After his conviction but prior to sentencing, the parties appeared before the trial court and announced that defendant had agreed to waive his rights to appeal and to seek postconviction relief in exchange for the State's recommendation that defendant be sentenced to ten years imprisonment. At the final sentencing hearing, defendant waived his appeal and postconviction rights, the State recommended he be sentenced to ten years, and the trial court sentenced him in accordance with that recommendation.

Despite the waiver of his right to appeal, defendant filed this appeal claiming that the evidence was insufficient to support his convictions. The court found that defendant had validly waived his rights to appeal and had been sentenced in accordance with the agreement reached. The court determined that defendant's voluntary waiver precluded any review of the merits of his appeal, and the appeal was dismissed.





## TIMOTHY BICKHAUS

R. Timothy (Tim) Bickhaus was born in Quincy, IL., and raised in Macon, MO., since the age of 13. He attended Northeast Missouri State University (now Truman State University) majoring in Political Science. He received the Degree of Master of Regional and Community Planning from Kansas State University in 1988. He graduated from the University of Missouri Kansas City School of Law in 1992. Enjoying all areas of the law, he started out on his own as a solo general practitioner.

Tim says he did not so much choose the field of prosecution as it chose him when a number of people asked him to run for the office. In his only contested race for Prosecuting Attorney, he won in every precinct. He believes he has kept a balanced approach and does not consider the job of Prosecutor so much as a "field," but an area of his law practice. Tim feels his practice is diverse and likes what he does.

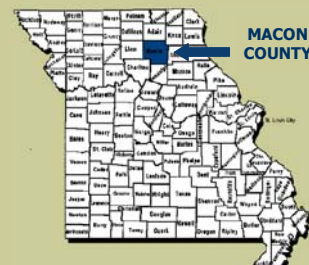
He would advise new prosecutors to "keep it real and remember life is not TV. You are an elected prosecutor from your community for a reason. You represent the people who elected you. Your job is more about adjusting people's behavior than punishment. The laws you prosecute do not come from on high, but can come from a vote of a thin margin for all the wrong reasons."

Tim is most proud of how he runs his office; saying that he took an office that was in complete disarray and turned it into a well-run office with two very motivated staff. He enjoys collecting restitution and signing those checks. Tim says, "getting people to make things right and try to be better is the best we really can do in our practice. I find that most people just want things made right."

Tim is concerned about his largest caseload as a prosecutor (drug crimes) and asserts: "Unlike doctors, we are not charged to 'do no harm.' We need to stop being afraid of the next election and find the voice to say these are not all bad people who commit drug crimes. I can't see how acting on a persons poor choice is going to improve their life...People who may truly have personal problems should not be labeled as criminals for bad choices when the probate laws can more than handle severe cases."

Tim and his "lovely" wife Carla share four dogs, three cats, and her two sons. They enjoy ship cruising, camping, traveling, TV, movies and reading.

- ▶ **Last great book he read:** *The End of Faith: Religion, Terror, and the Future of Reason* by Sam Harris
- ▶ **Favorite website:** <http://www.cato.org>
- ▶ **Favorite musical artist:** Frank Sinatra



# 2006 SPRING CONFERENCE

**April 12-14**



Kim Kucik and Jeffrey Othic—Immigration  
Consequences of Criminal Convictions



Shaun Mackelprang, Evan Buchheim, and Karen Kramer—Case Law Update



Lynda Hartwick—  
Forensic Document Examination



Leanna Depue—  
Blueprint for Safer Roadways



Peter Lobdell—Referral of Minor in  
Possession Cases & other Issues



Bob Milan—Preventing  
Wrongful Convictions



Herb Tanner—  
Ethics in the Media Age



Richard Lee—Electronic Monitoring; Barne Ploch—Intervention Fee Implementation; and  
Scott Johnson—Probation & Parole Operations & Missouri Reentry Process



William Zieres—  
Trends in Fire  
Investigations for  
Prosecutors



Cliff Strider—Jury Selection:  
Legal Issues and  
Persuasive Techniques &  
Cross-Examination of  
Expert Witnesses



## SUPPORT STAFF & VICTIM'S SERVICES TRAINING



## MOPS TRAINING 2006

May 31-June 2, 2006	DWI/Vehicular Homicide Training	Tan-Tar-A Resort, Osage Beach, MO
July 31-August 3, 2006	Trial Advocacy School	Capital Plaza Hotel Jefferson City, MO
August 30-September 1, 2006	MOPS Fall Statewide Training	Lodge of Four Seasons, Lake Ozark, MO

## NATIONAL CLE TRAINING May-June 2006

### May 2006

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

May 1-5	Trial Advocacy II	NDA	NAC, Columbia, SC ▼
May 2-4	Project Safe Neighborhoods National Conference	APRI	Denver, CO
May 7-11	Prosecuting Homicide Cases	NCD	Phoenix, AZ
May 8-12	Trial Advocacy I	NDA	NAC, Columbia, SC ▼
May 8-12	National Institute on the Prosecution of Domestic Violence	APRI	Miami, FL
May 16-18	Illegal Drugs: New Problems, New Solutions for Prosecutors	APRI	San Diego, CA
May 16-18	Project Safe Neighborhoods Enforcement Training	APRI	Minneapolis, MN
May 16-18	Community Prosecution	APRI	Indianapolis, IN
May 16-19	Faculty Development	NDA	NAC, Columbia, SC ▼
May 21-25	Government Civil Practice	NCD	Las Vegas, NV
May 22-25	Courtroom Technology	NDA	NAC, Columbia, SC ▼
May 23-25	Hitting the Mark II: Implementing and Maintaining Community Gun Violence Prosecution Initiatives	APRI	Minneapolis, MN
May 31-June 2	DNA Conference	NDA	NAC, Columbia, SC ▼

### June 2006

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

June 4-8	Criminal Investigations Course	NCD	Reno, NV
June 5-9	Bootcamp: An Introduction to Prosecution	NDA	NAC, Columbia, SC ▼
June 5-9	Investigation and Prosecution of Child Fatalities and Physical Abuse	APRI	San Antonio, TX
June 6-9	National Institute on the Prosecution of Sexual Violence	APRI	Monterey, CA
June 12-16	Trial Advocacy II	NDA	NAC, Columbia, SC ▼
June 12-16	True Identity: DNA Fingerprinting in the Courtroom	NDA	NAC, Columbia, SC ▼
June 18-29	Career Prosecutor Course	NCD	Charleston, SC
June 19-23	Trial Advocacy I	NDA	NAC, Columbia, SC ▼
June 22-24	Successful Partnering for Recovery— NADCP 12th Annual Drug Court Training Conference	NADCP	Seattle, WA
June 26-30	Lethal Weapon	NDA	NAC, Columbia, SC ▼
June 26-30	Finding Words Arkansas (Week #2)	APRI	Rogers, AR



# NATIONAL CLE TRAINING July-September 2006

## July 2006

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

July 10-14	<b>Cybersleuth II</b>	NDA	NAC, Columbia, SC ▼
July 10-14	<b>ChildProtect: Trial Advocacy for Child Protection Attorneys</b>	APRI	St Paul, MN
July 17-21	<b>Prosecutor and the Jury</b>	NDA	NAC, Columbia, SC ▼
July 17-21	<b>National Institute on the Prosecution of Domestic Violence</b>	APRI	Seattle, WA
July 24-28	<b>Trial Advocacy I</b>	NDA	NAC, Columbia, SC ▼
July 24-28	<b>Equal Justice: Investigation and Prosecution of Child Abuse</b>	APRI	Clearwater, FL
July 24-28	<b>Finding Words Missouri - Presented by the MO Network Of Child Advocacy Centers</b>		Columbia, MO
July 24-28	<b>NAPC Summer Conference</b>	NAPC	Santa Fe, NM
July 28-30	<b>NDA Board of Directors Meeting</b>	NDA	Santa Fe, NM
July 30-Aug 2	<b>NDA 2006 Summer Conference</b>	NDA	Santa Fe, NM
July 31-Aug 4	<b>Trial Advocacy II</b>	NDA	NAC, Columbia, SC ▼

## August 2006

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

Aug 2-5	<b>AGACL's Capital Litigation Seminar</b>	AGACL	San Diego, CA
Aug 7-11	<b>Trial Advocacy I</b>	NDA	NAC, Columbia, SC ▼
Aug 14-17	<b>True Identity: DNA Fingerprinting in the Courtroom</b>	APRI	Las Vegas, NV
Aug 14-18	<b>National Institute on the Prosecution of Sexual Violence</b>	APRI	Las Vegas, NV
Aug 21-25	<b>Trial Advocacy I</b>	NDA	NAC, Columbia, SC ▼
Aug 28-31	<b>Unsafe Havens II</b>	NDA	NAC, Columbia, SC ▼
Aug 28-30	<b>Hitting the Mark: Introduction to Gun Violence Prosecutions</b>	APRI	Chicago, IL
Aug 28-31	<b>Cross Examination</b>	NDA	NAC, Columbia, SC ▼
Aug 28-31	<b>Beyond Finding Words</b>	APRI	Indianapolis, IN

## September 2006

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

Sept 6-8	<b>Gangs Symposium</b>	NDA	NAC, Columbia, SC ▼
Sept 10-14	<b>Evidence for Prosecutors</b>	NCA	Providence, RI
Sept 11-14	<b>When Child Abuse Hits Home: Investigating, Proving and Assessing Reunification in Civil Child Protection Cases</b>	APRI	Missoula, MT
Sept 11-15	<b>National Institute on the Prosecution of Domestic Violence</b>	APRI	San Diego, CA
Sept 18-21	<b>Prosecutor and the Media</b>	NDA	NAC, Columbia, SC ▼
Sept 19-22	<b>Cross-Examination</b>	NDA	NAC, Columbia, SC ▼
Sept 20-22	<b>National Association for Justice Information Systems Conference</b>	NAJIS	Aventura, FL
Sept 25-27	<b>Hitting the Mark: Introduction to Gun Violence</b>	APRI	Jackson Hole, WY
Sept 25-29	<b>Trial Advocacy I</b>	NDA	NAC, Columbia, SC ▼
Sept 25-29	<b>Finding Words Arkansas (Week #3)</b>	APRI	Rogers, AR
Sept 25-29	<b>Finding Words Virginia (Week #3)</b>	APRI	Richmond, VA



# NATIONAL CLE TRAINING October-December 2006

## October 2006

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Oct 3-5	<b>3rd National Community Prosecution Conference</b>	APRI	San Diego, CA
Oct 14-18	<b>Executive Program</b>	NCDA	Park City, UT
Oct 22-26	<b>16th Annual National Conference on Domestic Violence</b>	NCDA	Houston, TX
Oct 23-27	<b>Finding Words Delaware (Week #3)</b>	APRI	Newark, DE
Oct 29-Nov 2	<b>Prosecuting Drug Cases</b>	NCDA	New Orleans, LA

## November 2006

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

Nov 12-16	<b>Prosecuting Homicide Cases</b>	NCDA	Savannah, GA
Nov 13-17	<b>Finding Words Missouri - Presented by the MO Network Of Child Advocacy Centers</b>		Union, MO
Nov 16-18	<b>NDAA Board of Directors Meeting</b>	NDAA	Scottsdale, AZ
Nov 19	<b>APRI Board of Directors Meeting</b>	APRI	Scottsdale, AZ
Nov 26-30	<b>Prosecuting Sexual Assaults and Related Violent Crimes</b>	NCDA	San Diego, CA

## December 2006

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

Dec 3-7	<b>Government Civil Practice</b>	NCDA	Las Vegas, NV
Dec 4-8	<b>National Institute on the Prosecution of Domestic Violence</b>	APRI	Charleston, SC
Dec 5-9	<b>NAPC Winter Meeting</b>	NAPC	Perdido Beach, AL
Dec 10-14	<b>Forensic Evidence</b>	NCDA	San Francisco, CA

### FOR INFORMATION ON NATIONAL COURSES:

National District Attorneys Association (NDAA) - (703) 549-9222 <http://www.ndaa.org/>

American Prosecutors Research Institute (APRI) - (703) 549-4253 <http://www.ndaa-apri.org>

National College of District Attorneys (NCDA) - (803) 705-5005 <http://www.law.sc.edu/ncda/>

▼ All expenses including accommodations, transportation and meals are covered or reimbursed by the NAC, and no tuition is charged. Please remember that all applications must be signed by the Elected Prosecutor.

## PROSECUTING ATTORNEY & CIRCUIT ATTORNEY'S RETIREMENT FUND

### Board Members:

**John Richards**, *Lincoln County*  
**Bob George**, *Lawrence County*  
**Kevin Barbour**, *Butler County*  
**Kevin Crane**, *Boone County*  
**Doug Roberts**, *Livingston County*

For questions regarding the retirement system please contact:

**Katrina Farrow**, Executive Secretary  
**PO Box 104896**  
**Jefferson City, MO 65110**  
**Phone: (573) 556-7985**  
**Fax: (573) 556-7986**



**WITNESS PROTECTION ASSISTANCE IS AVAILABLE THROUGH THE MOPS OFFICE.**

**FOR INFORMATION, YOU MAY CALL SHERI AT (573) 522-1838.**

## MOPS.MO.GOV

The MOPS website contains conference information (ie. dates, registration, agenda and CLE credits), MOPS and Traffic Safety newsletter archives, the 2005 legislative summary, Prosecuting Attorney contact information and much more.

<http://www.mops.mo.gov/>

**MOPS DWI/Vehicular Homicide Conference**  
**May 31-June 2, 2006; Tan-Tar-A Resort, Osage Beach, MO**

The Missouri Office of Prosecution Services is pleased to announce its annual DWI/Vehicular Homicide Conference. This conference will cover topics of interest to prosecutors, law enforcement officers, and others interested in impaired driving issues. A tentative agenda and registration form are included. Please contact Susan Glass or Bev Case at 573-751-0619 or 573-751-1629 with questions. This conference will be eligible for CLE and POST credit.

***Wednesday, May 31*** (Salon A)

- 12:00-1:00     Registration
- 1:00-2:30     Perspectives on DWI  
                    Nationally: *Susan DeCourcy, National Highway Traffic Safety Administration*  
                    In Missouri: *Scott Turner, Missouri Division of Highway Safety*  
                    A Victim's Story: *Michael Mann*
- 2:30-2:45     Break
- 2:45-3:45     The National Traffic Law Center: What It Can Do For You  
                    *Elizabeth Earleywine, National Traffic Law Center*
- 3:45-4:00     Break
- 4:00-5:30     DWI Courts: What They Are and Why They Work  
                    *West Huddleston, National Drug Court Institute*

***Thursday, June 1*** (Salon A)

- 8:00-10:00    Caselaw Update  
                    *Cheryl Nield, Missouri Attorney General's Office*
- 10:00-10:15   Break
- 10:15-12:15   Prescription Drug Abuse  
                    *Travis Jones, St. Charles County Sheriff's Department*
- 12:15-1:15    Lunch (provided, Parasol 1)
- 1:15-3:00     The Ethics of DWI Investigations and Prosecutions  
                    *Carol England, Callaway County*
- 3:00-3:15     Break
- 3:15-5:00     A DWI Trial: Lessons to be Learned  
                    *John Bauer, St. Charles County*  
                    *Travis Noble, Sindel, Sindel and Noble*

***Friday, June 2*** (Salon A)

- 8:00-10:00    Criminal History Reporting and the DWI Tracking System  
                    *Kerry Creach, Missouri State Highway Patrol*  
                    *Scott Jones, Office of State Courts Administrator*  
                    *Brad Jones, Missouri State Highway Patrol*
- 10:00-10:15   Break
- 10:15-12:00   Teamwork in DWI Investigations and Prosecutions  
                    *Tom Kimball, Traffic Safety Resource Prosecutor, State of Tennessee*

MISSOURI OFFICE OF PROSECUTION SERVICES

MISSOURI OFFICE OF PROSECUTION SERVICES  
FUNDED BY THE MISSOURI DIVISION OF HIGHWAY SAFETY  
**DWI/VEHICULAR HOMICIDE CONFERENCE**  
Tan-Tar-A Resort, Osage Beach, MO  
May 31- June 2, 2006

**REGISTRATION FORM**

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

COUNTY: \_\_\_\_\_

TITLE: \_\_\_\_\_

AGENCY: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

You will be responsible for the cost of your hotel room should you need one. We are holding a block of rooms at Tan-Tar-A Resort, Osage Beach, for Wednesday and Thursday nights. The room rate is \$79.00 per night inclusive of lodging tax. The block of rooms is available until April 30. After the 30th, it will depend on availability. You may make reservations by calling Tan-Tar-A at 1-800-826-8272. Be sure to mention that you will be attending the conference sponsored by The Missouri Office of Prosecution Services in order to secure our room rate. On Thursday, June 1, there will be a noon luncheon for attendees and speakers which is covered in the registration fee. Registration for this conference is \$60.00 per person. **Please make your check payable to "MOPS Revolving Fund."** The registration fee **must** be paid by May 30 in order to attend the conference. **This program is POST accredited for law enforcement officers.**

Please return this form along with your check for \$60.00 made payable to **MOPS Revolving Fund** to:

Missouri Office of Prosecution Services  
DWI/Vehicular Homicide Seminar  
P. O. Box 899  
Jefferson City, Missouri 65102

Please copy and distribute throughout prosecutor offices and law enforcement agencies.



**Prosecutor Coordinators Training Council,  
MAPA Officers:**

**President:** John Kay, *Moniteau County Prosecutor*  
**Vice-President:** Kevin Crane, *Boone County Prosecutor*  
**Secretary:** Mike Hazel, *Pemiscot County Prosecutor*  
**Treasurer:** Scott Watson, *Newton County Prosecutor*  
**Past President:** Bob Wilkins, *Jefferson County Prosecutor*

**Missouri Attorney General:** Jay Nixon

**Missouri Office of Prosecution Services:**

**Director:**

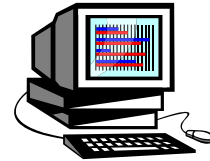
**Traffic Safety Resource Attorney:** Susan Glass

**Conference Coordinator:** Bev Case

**Administrative Assistant:** Sheri Menteer

**Computer Information Specialist:** Jane Quick

**Part-time Secretary:** Judy Brooks



***The Missouri Prosecutor is  
available by e-mail in PDF format.***

If you are interested in receiving the  
newsletter by e-mail or  
wish to submit an article,  
please notify Sheri at the MOPS office.

E-mail: [Sheri.Menteer@ago.mo.gov](mailto:Sheri.Menteer@ago.mo.gov)

**MISSOURI PROSECUTOR**

Published by the Missouri Office of Prosecution Services and  
Missouri Association of Prosecuting Attorneys,  
PO Box 899, Jefferson City, MO 65102  
Telephone (573) 751-0619  
Fax (573) 751-1171  
<http://www.mops.mo.gov>



**MISSOURI OFFICE OF PROSECUTION SERVICES  
PO BOX 899  
JEFFERSON CITY, MO 65101**

***Mission Statement: To improve Missouri's Criminal Justice System by promoting professional prosecution by enhancing  
funding and training for prosecutors; by advancing the interests and the image of Missouri prosecutors and to  
facilitate communication among and between prosecutors and the criminal justice community.***